




Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

As addressed in the R&R, there are legal barriers to Plaintiffs' claims. This Court has inherent power to determine if it has jurisdiction over a matter before proceeding further. Here, from the face of the pleadings, it is apparent this Court lacks jurisdiction. First, the parties involved are all South Carolina citizens. (Dkt. No. 1). Thus, complete diversity does not exist and diversity jurisdiction cannot be established under 28 U.S.C § 1332. Moreover, the allegations of the Complaint surround a 2007 probate matter that was adjudicated by the State probate court. Therefore, this matter is not one that "aris[es] under the Constitution, laws, or treaties of the United States" pursuant to 28 U.S.C. § 1331. Further, it is well established that this Court has no jurisdiction over a matter within the exclusive jurisdiction of the state probate court. *Beattie v. J.M. Tull Foundation*, 941 F. Supp. 57, 58 (D.S.C. 1996). Accordingly, this Court is without jurisdiction to proceed further in this matter.

### **Conclusion**

Accordingly, this Court grants dismisses Plaintiffs' complaint without prejudice and without issue and service of process.

**AND IT IS SO ORDERED.**

  
Richard Mark Gergel  
United States District Court Judge

January 24, 2011  
Charleston, South Carolina